

EXHIBIT E

COPY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
KITCHEN WINNERS NY INC.,

PLAINTIFF,

-against- CIVIL Action No.:
22-cv-05276-PAE

ROCK FINTEK LLC,

DEFENDANT.

-----X
ROCK FINTEK LLC,

COUNTERCLAIM and THIRD-PARTY PLAINTIFF,

-against-

KITCHEN WINNERS NY INC.,

COUNTERCLAIM DEFENDANT,

and

ADORAMA INC., HERSHEY WEINER, JOSEPH
MENDLOWITZ, JNS CAPITAL HOLDINGS LLC and
JOEL STERN,

THIRD-PARTY DEFENDANTS.

-----X

DATE: November 16, 2023

TIME: 2:07 p.m.

DEPOSITION of BRAD JAEGER

RAPID REPORTING LLC
254 South Main Street, Suite 216
New City, New York 10956
(718) 310-0704

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JAEGER

behalf of Ascension or the Resource Group
between its various warehouses?

A Yes. I'm aware of that
occurring.

Q Okay. Are you aware that at
some point in time Medline performed an
audit of some or all of the gloves that it
was holding on behalf of Ascension or the
Resource Group?

A Yes, I am aware.

Q Were you personally involved in
that?

A Yes, I was involved.

Q Can you explain to me what
exactly was done by Medline?

MR. OGLES: Object to the form.

It's a little broad, Counsel, but,
to the witness, if you can answer
it, go ahead.

A Yes. It was requested by the
customer to do a label audit for their
goods at the direction of the customer at
our DCs that stored the products in
question.

1 JAEGER

2 Q When you say DCs, what does
3 that mean?

4 A Distribution center or
5 warehouse.

6 Q Okay. You said you were
7 involved in that. What was your role in
8 that audit?

9 A Once we received direction from
10 the customer on what they wanted checked, I
11 helped coordinate with our warehouse
12 directors on a call and then a follow-up
13 e-mail with details on how the audit should
14 be completed.

15 Q Okay. And so what did
16 Ascension specifically ask you to do?

17 A Ascension identified specific
18 labels they wanted to be identified within
19 their product. They sent us the
20 information with the labels they want
21 identified, and we completed the audit to
22 help them identify those labels.

23 Q What labels were they
24 interested in?

25 A I would have to refer to one of

1 JAEGER

2 the documents, but I believe it said
3 synthetic nitrile gloves.

4 Q How did you or other Medline
5 employees go about performing this audit?

6 A Under the direction of the
7 customer, we went to each slot that the
8 product was stored in. We removed one
9 random case. We opened the case and
10 removed one random box within that case and
11 inspected it for the label that was
12 identified by Ascension.

13 Q Did you check to see if every
14 box on that pallet was the same?

15 MR. OGLES: Object to form.

16 A No. Our instruction was to
17 check one single case and one box within
18 the case.

19 Q Do you know if every box on
20 each pallet contained the same type of
21 gloves as the one that you selected to look
22 at?

23 MR. OGLES: Object to form.

24 A I couldn't confirm.

25 Q Approximately how many

1 JAEGER

2 A I did not.

3 Q Did you speak with all the
4 employees listed on Medline 38 in preparing
5 for today's deposition?

6 A I did not.

7 Q Does Medline ordinarily conduct
8 these kinds of audits on behalf of
9 Ascension?

10 A I wouldn't say ordinarily.
11 It's when requested.

12 Q How many other audits has
13 Medline conducted on behalf of Ascension in
14 the last let's say five years?

15 MR. OGLES: Objection. Outside
16 the scope. If you know, go ahead.

17 A Maybe one or two that I can
18 recall.

19 Q So it's not the kind of thing
20 that you would ordinarily -- that you would
21 undertake in the ordinary course of
22 business unless asked specifically to do
23 so, correct?

24 MR. OGLES: Objection to form.
25 Counsel, you're referring to for

1 JAEGER

2 had to step away from the video
3 screen but I will ask a few
4 questions via the audio and
5 hopefully Ms. Riddle can assist me
6 with putting a couple of documents
7 up.

8 EXAMINATION BY

9 MR. RAKHUNOV:

10 Q So you were just asked if
11 Medline routinely conducts audits for
12 customers when not asked to do so, and I
13 just want the record to be clear.
14 Medline conducts audits for its customers
15 routinely when asked to do so. Is that
16 fair?

17 A Yes. When Medline is asked to
18 complete an audit, we do so.

19 Q And you were just -- there was
20 a reference made to a document that I
21 believe was Bates labeled Medline 35.

22 MR. RAKHUNOV: Ms. Riddle,
23 would you be kind enough to screen
24 share that? And we would like to
25 mark that as an exhibit.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JAEGER

(Whereupon, a e-mail was marked as Medline Exhibit F for identification, as of this date, by the reporter.)

Q And, you know, I'm only screen sharing it for the purpose of confirming that that's the same document that you were just referring to in your testimony.

So is that the same document you were just looking at, Mr. Jaeger?

A Yes.

Q Okay. And on the first page of the document, the last in time e-mail, do you see a chart there?

A Yes.

Q And does that chart reflect the results of the audit that Medline conducted for Ascension?

A Yes, it does.

Q Okay. And I believe you were asked a question earlier as to the type of labels that Ascension had asked Medline to audit, and I'm not sure that I heard clearly, so I apologize if I'm asking you

1 JAEGER

2 again, but did I -- is it correct that
3 Medline -- I'm sorry -- Ascension asked
4 Medline to count the boxes that were
5 labeled as NBR examination gloves versus
6 those that were labeled protection gloves?

7 A I would have to refer to the
8 document on the specifics of what were
9 requested for the audit.

10 Q Please feel free to do so, if
11 you don't mind.

12 (Whereupon, an off-the-record
13 discussion was held.)

14 A Looks like it says product can
15 be identified by the text synthetic nitrile
16 protection glove listed on the box unit
17 measure inside the case.

18 Q And those were the items that
19 the audit focused on, correct?

20 A Correct.

21 Q So the chart on page labeled
22 35, does that accurately and fairly
23 represent the results of the audit that
24 Medline conducted for Ascension?

25 A Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JAEGER

Q And Medline was paid for that work by Ascension, correct?

A That is correct.

Q And I believe I recall there was a number of about 108 hours that various Medline employees spent on this audit?

A Yeah. I don't have the total number, but yes, that sounds close.

MR. RAKHUNOV: Okay. If I could ask Ms. Riddle to put up the next exhibit on the screen.

Q And this is a document that I will represent to you is a handful of photographs that were taken by my client in July of 2021 at various Medline warehouses. And it's a compilation of I believe seven photographs that are in a PDF document that we'll mark as the next exhibit.

(Whereupon, photographs were marked as Medline Exhibit G for identification, as of this date, by the reporter.)

MR. RAKHUNOV: Just scroll

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JAEGER

documents from Medline audit were accurate,
and you answered in the affirmative; is
that correct?

MR. OGLES: Objection. That
mischaracterizes his testimony; is
it fair and accurate that --
anyways, go ahead.

MR. SPERBER: So I don't want
to mischaracterize anybody's
testimony.

Q So is it your testimony that
the results of Medline's audit as listed in
this document are accurate?

A Correct.

Q What are you basing that upon?

A Going back to what was stated
earlier. The instruction from the customer
was to go to each slot across all DCs, pull
one case of the product, then from that
case pull one box to identify if it was
listed, if it had the text listed synthetic
nitrile protection gloves. If it did, that
entire slot was then put on blocked or held
inventory.

1 JAEGER

2 Q Again, you testified earlier
3 that you were not the one who conducted the
4 entire audit yourself, correct?

5 A Correct.

6 Q And you have not spoken with
7 every individual Medline employee who was
8 involved in conducting the audit, correct?

9 A Correct.

10 Q So how do you know that what
11 they recorded was accurate?

12 A Giving -- giving instruction to
13 the directors of each one of these
14 warehouses and then following up to make
15 sure it was completed with them reporting
16 what was put onto blocked inventory and
17 left as unrestricted inventory while also
18 providing the number of hours that were
19 completed for me to confirm that the audit
20 was completed.

21 Q Have you independently verified
22 that -- what those employees or directors
23 told you was correct?

24 A I can't independently verify
25 that.